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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2010-576**

11 **CHERYL LYNN PILKINGTON-GROSS**  
12 **628 Cambridge Avenue**  
13 **Menlo Park, CA 94025**

**ACCUSATION**

14 **Registered Nurse License No. 333119**  
**Public Health Nurse Certificate No. 38533**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about September 30, 1981, the Board of Registered Nursing issued Registered  
23 Nurse License Number 333119 to Cheryl Lynn Pilkington-Gross (Respondent). The Registered  
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on March 31, 2011, unless renewed.

26 3. On or about July 10, 1985, the Board of Registered Nursing issued Public Health  
27 Nurse Certificate No. 38533 to Respondent. The Public Health Nurse Certificate was in full force  
28

1 and effect at all times relevant to the charges brought herein and will expire on March 31, 2011,  
2 unless renewed.

### 3 4 JURISDICTION

5 4. This Accusation is brought before the Board of Registered Nursing (Board),  
6 Department of Consumer Affairs, under the authority of the following laws. All section  
7 references are to the Business and Professions Code unless otherwise indicated.

8 5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
9 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
10 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
11 Nursing Practice Act.

12 6. Section 2761 of the Code states:

13 "The board may take disciplinary action against a certified or licensed nurse or deny an  
14 application for a certificate or license for any of the following:

15 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

16 ...

17 "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
18 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
19 conclusive evidence thereof.

20 ..."

21 7. Section 2762 of the Code states:

22 "In addition to other acts constituting unprofessional conduct within the meaning of this  
23 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
24 chapter to do any of the following:

25 ...

26 "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
27 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
28 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
5 or the possession of, or falsification of a record pertaining to, the substances described in  
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
7 thereof.

8 . . . "

9 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
10 revoke a license on the ground that the licensee has been convicted of a crime substantially  
11 related to the qualifications, functions, or duties of the business or profession for which the  
12 license was issued.

13 9. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
14 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
15 licensee or to render a decision imposing discipline on the license.

16 10. Section 118, subdivision (b), of the Code provides that the expiration of a license  
17 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
18 within which the license may be renewed, restored, reissued or reinstated.

19 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
20 administrative law judge to direct a licentiate found to have committed a violation or violations of  
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
22 enforcement of the case.

### 23 FIRST CAUSE FOR DISCIPLINE

#### 24 (CRIMINAL CONVICTION)

25 12. Respondent is subject to disciplinary action under sections 2761(f), 2762(c), and/or  
26 490 in that on or about August 18, 2008, in a criminal proceeding entitled *The People of the State*  
27 *of California v. Cheryl Lynn Pilkington-Gross*, in Santa Clara County Superior Court, Case  
28 Number BB833253, Respondent was convicted by her plea of nolo contendere of violating

1 Vehicle Code section 23152(a) (driving under the influence of drugs). Respondent was sentenced  
2 to probation for three years, and ordered to pay fines in the amount of \$1,295.00. The  
3 circumstances of the conviction were that on or about March 14, 2008, Respondent was arrested  
4 on San Antonio Road in Palo Alto, California, after a two-vehicle collision. Respondent was  
5 unable to pass standard field sobriety tests due to the fact that she continually nodded off during  
6 the tests; Respondent was ultimately unable to pass field sobriety tests due to the influence of  
7 narcotics.

8 SECOND CAUSE FOR DISCIPLINE

9 (USE OF CONTROLLED SUBSTANCES IN A MANNER DANGEROUS TO ONESELF OR  
10 OTHERS)

11 13. Respondent is subject to disciplinary action under sections 2761(a) and/or 2762(b) in  
12 that on or about March 14, 2008, Respondent was arrested on San Antonio Road in Palo Alto,  
13 California, after a two-vehicle collision. Respondent was unable to pass standard field sobriety  
14 tests due to the fact that she continually nodded off during the tests; Respondent was ultimately  
15 unable to pass field sobriety tests due to the influence of narcotics. Respondent admitted to the  
16 arresting officer that she had taken pain medication in excess of physician's orders.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 333119, issued to Cheryl  
21 Lynn Pilkington-Gross.

22 2. Revoking or suspending Public Health Nurse Certificate Number 38533, issued to  
23 Cheryl Lynn Pilkington-Gross.

24 3. Ordering Cheryl Lynn Pilkington-Gross to pay the Board of Registered Nursing the  
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
26 Professions Code section 125.3;

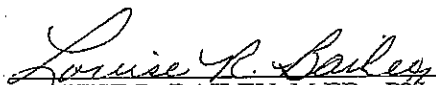
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4. Taking such other and further action as deemed necessary and proper.

DATED: 4/20/10

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

SF2010200398